

which may be commenced and prosecuted within the same time and with the same effect as if this chapter had not been passed.

(d) Certain acts not affected.

Nothing in this chapter shall be construed to amend or repeal any of the following provisions of law:

(1) Sections 128, 130, and 131 of this title and section 146 of Title 46;

(2) Subsection 2 of paragraph N of Section IV of such act of October 3, 1913, ch. 16 (relating to the manufacture of alcohol for denaturalization only);

(3) Section 296 of Title 5 (providing for an Assistant Attorney General in charge of customs matters);

(4) The act entitled "An Act relating to the use or disposal of vessels or vehicles forfeited to the United States for violation of the customs laws or the National Prohibition Act, and for other purposes", approved March 3, 1925; nor

(5) The Antidumping Act, 1921.

(June 17, 1930, ch. 497, title IV, § 651, 46 Stat. 762.)

REFERENCES IN TEXT

Subsection 2 of paragraph N of section IV of act of October 3, 1913, ch. 16, referred to in text of subd. (d) (2), was formerly classified to sections 487 and 488 of Title 26, Internal Revenue Code, and was repealed by act Feb. 10, 1939, ch. 2, § 4, 53 Stat. 1.

Act of March 3, 1925, referred to in the text of subd. (d) (4) was repealed by act Aug. 27, 1935, ch. 740, § 308, 49 Stat. 880.

The Antidumping Act, 1921, referred to in the text of subd. (d) (5), is classified to sections 160—171 of this title.

ABOLISHMENT OF OFFICE

The office of Assistant Attorney General in charge of customs matters, created by section 296 of Title 5, Executive Departments and Government Officers and Employees, was abolished by 1953 Reorg. Plan No. 4, § 2, eff. June 20, 1953, 18 F. R. 3577, set out as a note under section 291 of Title 5.

§ 1652. Separability of provisions.

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances shall not be affected thereby. (June 17, 1930, ch. 497, title IV, § 652, 46 Stat. 763.)

§ 1653. Effective date of chapter.

Except as otherwise provided, this chapter shall take effect on June 18, 1930. (June 17, 1930, ch. 497, title IV, § 653, 46 Stat. 763.)

§ 1653a. Effective date of Customs Administrative Act of 1938.

CODIFICATION

Section, act June 25, 1938, 5 p. m. E. S. T., ch. 679, § 37, 52 Stat. 1094, related to the date of enactment of the Customs Administrative Act of 1938, and is now set out as a note under section 1401 of this title.

Section was not part of Tariff Act of 1930 which constitutes this chapter.

§ 1654. Short title.

This chapter may be cited as the "Tariff Act of 1930." (June 17, 1930, ch. 497, title IV, § 654, 46 Stat. 763.)

Chapter 5.—SMUGGLING

Sec.

- 1701. Customs-enforcement area.
  - (a) Establishment; extent and duration; enforcement of laws applicable to waters adjacent to customs waters.
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- 1703. Seizure and forfeiture of vessels.
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- 1704. Refusal or revocation of registry, enrollment, license or number on evidence that vessel engaging in smuggling; appeal; immunity from liability.
- 1705. Destruction of forfeited vessel or vehicle.
- 1706. Importation in vessels under thirty tons and aircraft; licenses; labels as prima facie evidence of foreign origin of merchandise.
- 1707. Certificate for importation of alcoholic liquors in small vessels; bond where liquor destined to foreign port; penalty for failure to carry; lost, defaced, or incorrect certificate as relieving from penalty.
- 1708. Lading vessel in foreign port with liquor for importation.
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§ 1701. Customs-enforcement area.

(a) Establishment; extent and duration; enforcement of laws applicable to waters adjacent to customs waters.

Whenever the President finds and declares that at any place or within any area on the high seas adjacent to but outside customs waters any vessel or vessels hover or are being kept off the coast of the United States and that, by virtue of the presence of any such vessel or vessels at such place or within such area, the unlawful introduction or removal into or from the United States of any merchandise or person is being or may be occasioned, promoted, or threatened, the place or area so found and declared shall constitute a customs-enforcement area for the purposes of this chapter. Only such waters on the high seas shall be within a customs-enforcement area as the President finds and declares are in such proximity to such vessel or vessels that such unlawful introduction or removal of merchandise or persons may be carried on by or to or from such vessel or vessels. No customs-enforcement area shall include any waters more than one hundred nautical miles from the place or immediate area where the President declares such vessel or vessels are hovering or are being kept and, notwithstanding the foregoing provision, shall not include any waters more than fifty nautical miles outwards from the outer limit of customs waters. Whenever the President finds that, within any customs-enforcement area, the circumstances no longer exist which gave rise to the declaration of such area as a customs-enforcement area, he shall so declare, and thereafter, and until a further finding and declaration is made under this subsection with respect to waters within such area,

no waters within such area shall constitute a part of such customs-enforcement area. The provisions of law applying to the high seas adjacent to customs waters of the United States shall be enforced in a customs-enforcement area upon any vessel, merchandise, or person found therein.

(b) Boarding vessels; arrest and seizure; compliance with treaty provisions; authority of Secretary of Commerce unaffected.

At any place within a customs-enforcement area the several officers of the customs may go on board of any vessel and examine the vessel and any merchandise or person on board, and bring the same into port, and, subject to regulations of the Secretary of the Treasury, it shall be their duty to pursue and seize or arrest and otherwise enforce upon such vessel, merchandise, or person, the provisions of law which are made effective thereto in pursuance of subsection (a) of this section in the same manner as such officers are or may be authorized or required to do in like case at any place in the United States by virtue of any law respecting the revenue: *Provided*, That nothing contained in this section or in any other provision of law respecting the revenue shall be construed to authorize or to require any officer of the United States to enforce any law thereof upon the high seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government: *Provided further*, That none of the provisions of this chapter shall be construed to relieve the Secretary of Commerce of any authority, responsibility, or jurisdiction now vested in or imposed on that officer. (Aug. 5, 1935, ch. 438, title I, § 1, 49 Stat. 517.)

#### DELEGATION OF FUNCTIONS

For delegation to the Secretary of the Treasury of authority vested in the President by this section, see Ex. Ord. No. 10289, Sept. 17, 1951, 16 F. R. 9499, set out as a note under section 301 of Title 3, The President.

#### CROSS REFERENCES

Certain functions of Secretary of Commerce relating to shipping and navigation transferred to Commissioner of Customs and Commandant of the Coast Guard, see note under section 1 of Title 46, Shipping.

§ 1702. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, act Aug. 5, 1935, ch. 438, title I, § 2, 49 Stat. 518, related to smuggling into territory of a foreign government, and is now covered by section 546 of Title 18, Crimes and Criminal Procedure.

§ 1703. Seizure and forfeiture of vessels.

(a) Vessels subject to seizure and forfeiture.

Whenever any vessel which shall have been built, purchased, fitted out in whole or in part, or held, in the United States or elsewhere, for the purpose of being employed to defraud the revenue or to smuggle any merchandise into the United States, or to smuggle any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for viola-

tion of the laws of the United States respecting the customs revenue, or whenever any vessel which shall be found, or discovered to have been, employed, or attempted to be employed, within the United States for any such purpose, or in anywise in assistance thereof, or whenever any vessel of the United States which shall be found, or discovered to have been, employed, or attempted to be employed at any place, for any such purpose, or in anywise in assistance thereof, if not subsequently forfeited to the United States or to a foreign government, is found at any place at which any such vessel may be examined by an officer of the customs in the enforcement of any law respecting the revenue, the said vessel and its cargo shall be seized and forfeited.

(b) "Vessels of the United States."

Every vessel which is documented, owned, or controlled in the United States, and every vessel of foreign registry which is, directly or indirectly, substantially owned or controlled by any citizen of, or corporation incorporated, owned, or controlled in, the United States, shall, for the purposes of this section, be deemed a vessel of the United States.

(c) Acts constituting prima facie evidence vessel engaged in smuggling.

For the purposes of this section, the fact that a vessel has become subject to pursuit as provided in section 1581 of this title, or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or within a customs-enforcement area, to display lights as required by law, shall be prima facie evidence that such vessel is being, or has been, or is attempted to be employed to defraud the revenue of the United States. (Aug. 5, 1935, ch. 438, title I, § 3, 49 Stat. 518.)

§ 1704. Refusal or revocation of registry, enrollment, license or number on evidence that vessel engaging in smuggling; appeal; immunity from liability.

Subject to appeal to the Secretary of the Treasury and under such regulations as he may prescribe, whenever either the collector of customs of the district in which any vessel is, or is sought to be, registered, enrolled, or licensed, or the Commandant of the Coast Guard in the case of any vessel which is, or is sought to be numbered, is shown upon evidence which he deems sufficient that such vessel is being, or is intended to be, employed to smuggle, transport, or otherwise assist in the unlawful introduction or importation into the United States of any merchandise or person, or to smuggle any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, or whenever, from the design or fittings of any vessel or the nature of any repairs made thereon, it is apparent to such collector or Commandant that such vessel has been built or adapted for the purpose of smuggling merchandise, the said collector or Commandant shall revoke the registry, enrollment, license, or number of said vessel or refuse the same if application be made therefor, as the case may be. Such collector or Commandant and all persons acting by or under his

direction shall be indemnified from any penalties or actions for damages for carrying out the provisions of this section. (Aug. 5, 1935, ch. 438, title I, § 4, 49 Stat. 519; 1946 Reorg. Plan No. 3, eff. July 16, 1946, §§ 101—104, 11 F. R. 7875, 60 Stat. 1097.)

#### TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of that Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. Collectors of customs, and the Commandant of the Coast Guard, referred to in this section, are officers of the Treasury Department, but, in the case of the Coast Guard, and the Commandant thereof, the Plan provided that, notwithstanding the transfer of functions, the Coast Guard shall continue to operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in sections 1 and 3 of Title 14, Coast Guard.

"Secretary of the Treasury" was substituted for "Secretary of Commerce" and provisions of this section relating to the numbering of vessels were changed to show that such functions are now vested in the Commandant of the Coast Guard instead of collectors of customs on authority of 1946 Reorg. Plan No. 3. Specifically, "the Commandant of the Coast Guard in the case of any vessel which is, or is sought to be" was inserted before "numbered" and "or Commandant" was inserted after "collector" in three places. See note under section 1 of Title 46, Shipping.

#### § 1705. Destruction of forfeited vessel or vehicle.

Any vessel or vehicle forfeited to the United States, whether summarily or by a decree of any court, for violation of any law respecting the revenue, may, in the discretion of the Secretary of the Treasury, if he deems it necessary to protect the revenue of the United States, be destroyed in lieu of the sale thereof under existing law. (Aug. 5, 1935, ch. 438, title I, § 5, 49 Stat. 519.)

#### § 1706. Importation in vessels under 30 tons and aircraft; licenses; labels as prima facie evidence of foreign origin of merchandise.

Except into the districts adjoining to the Dominion of Canada, or into the districts adjacent to Mexico, no merchandise of foreign growth or manufacture subject to the payment of duties shall be brought into the United States from any foreign port or place, or from any hovering vessel, in any vessel of less than thirty net tons burden without special license granted by the Secretary of the Treasury under such conditions as he may prescribe, nor in any other manner than by sea, except by aircraft duly licensed in accordance with law, or landed or unladen at any other port than is directed by law, under the penalty of seizure and forfeiture of all such unlicensed vessels or aircraft and of the merchandise imported therein, landed or unladen in any manner. Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found upon any such vessel or aircraft, shall be prima facie evidence of the foreign origin of such merchandise. (Aug. 5, 1935, ch. 438, title I, § 6, 49 Stat. 519.)

#### § 1707. Certificate for importation of alcoholic liquors in small vessels; bond where liquor destined to foreign port; penalty for failure to carry; lost, defaced, or incorrect certificate as relieving from penalty.

In addition to any other requirement of law, every vessel, not exceeding five hundred net tons, from a foreign port or place, or which has visited a hovering vessel, shall carry a certificate for the importation into the United States of any spirits, wines, or other alcoholic liquors on board thereof (sea stores excepted), destined to the United States, said certificate to be issued by a consular officer of the United States or other authorized person pursuant to such regulations as the Secretary of State and the Secretary of the Treasury may jointly prescribe. Any spirits, wines, or other alcoholic liquors (sea stores excepted) found, or discovered to have been, upon any such vessel at any place in the United States, or within the customs waters, without said certificate on board, which are not shown to have a bona fide destination without the United States, shall be seized and forfeited and, in the case of any such merchandise so destined to a foreign port or place, a bond shall be required in double the amount of the duties to which such merchandise would be subject if imported into the United States, conditioned upon the delivery of said merchandise at such foreign port or place as may be certified by a consular officer of the United States or otherwise as provided in said regulations: *Provided*, That if the collector shall be satisfied that the certificate required for the importation of any spirits, wines, or other alcoholic liquors was issued and was lost or mislaid without fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake, said penalties shall not be incurred nor shall such bond be required. This section shall take effect on the sixtieth day following Aug. 5, 1935. (Aug. 5, 1935, ch. 438, title I, § 7, 49 Stat. 520.)

#### § 1708. Lading vessel in foreign port with liquor for importation.

##### (a) Allowing lading without certificate for importation; liability of master.

If the master of any vessel of the United States, not exceeding five hundred net tons, allows such vessel to be laden at any foreign port or other place without the United States with any merchandise destined to the United States and consisting of any spirits, wines, or other alcoholic liquors (sea stores excepted), which facts may be evidenced by the testimony or depositions of foreign administrative officials or certified copies of their records or by other sufficient evidence, without certificate issued for the importation of such merchandise into the United States as required by section 1707 of this title, the master of such vessel shall, in addition to any other penalties provided by law, be liable to a penalty equal to the value of the said merchandise but not less than \$1,000 and such vessel and such merchandise shall be seized and forfeited.

##### (b) Procuring lading with intent to defraud revenue laws; liability of citizen, master, and members of crew of United States vessel.

Whoever, being a citizen of the United States or a master or a member of the crew of a vessel of the

United States, if such vessel does not exceed five hundred net tons, shall, with intent to defraud the revenue of the United States, procure, or aid or assist in procuring, any merchandise destined to the United States and consisting of any spirits, wines, or other alcoholic liquors, without certificate issued for the importation thereof into the United States as required by section 1707 of this title, to be laden upon such vessel at any foreign port or other place without the United States, which facts may be evidenced by the testimony or depositions of foreign administrative officials or certified copies of their records or by other sufficient evidence, shall, in addition to any other penalties provided by law, be liable to a fine of not more than \$1,000 or to imprisonment for not more than two years, or to both such fine and imprisonment. (Aug. 5, 1935, ch. 438, title I, § 8, 49 Stat. 520.)

## CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

## § 1709. Definitions.

When used in this act:

(a) The term "United States", when used in a geographical sense, includes all Territories and possessions of the United States, except the Virgin Islands, the Canal Zone, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam.

(b) The term "officer of the customs" means any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or agent or other person authorized by law or by the Secretary of the Treasury, or appointed in writing by a collector, to perform the duties of an officer of the Customs Service.

(c) The term "customs waters" means, in the case of a foreign vessel subject to a treaty or other arrangement between a foreign government and the United States enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States, the waters within such distance of the coast of the United States as the said authorities are or may be so enabled or permitted by such treaty or arrangement and, in the case of every other vessel, the waters within four leagues of the coast of the United States.

(d) The term "hovering vessel" means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws respecting the revenue. (Aug. 5, 1935, ch. 438, title IV, § 401, 49 Stat. 529; June 25, 1938, 5 p. m. E. S. T., ch. 679, § 2, 52 Stat. 1077; Proc. No. 2695, July 4, 1946, 11 F. R. 7517, 60 Stat. 1352; June 10, 1955, ch. 258, § 2 (b), 69 Stat. 242.)

## REFERENCES IN TEXT

Word "act", referred to in the text, means act Aug. 5, 1935, which is classified to sections 1401, 1432a, 1434, 1436, 1441, 1581, 1584—1587, 1592, 1615, 1619, 1621, 1701, 1703—1711 of this title, and sections 60, 91, 277, 288, 319, 325 of Title 48, Shipping.

## CODIFICATION

Words "the Philippine Islands" in subsec. (a) were omitted on authority of Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse, and in which the President proclaimed the independence of the Philippines.

## AMENDMENTS

1955—Subsec. (a) amended by act June 30, 1955, which inserted "Johnston Island".

1938—Act June 25, 1938, amended subsec. (a) by inserting "Wake Island, Midway Islands, Kingman Reef" before "and the island of Guam."

## EFFECTIVE DATE OF 1955 AMENDMENT

Amendment of section by act June 30, 1955, as effective July 1, 1955, see note under section 1001 of this title.

## EFFECTIVE DATE OF 1938 AMENDMENT

Amendment to this section by act June 25, 1938, to take effect on the thirtieth day following June 25, 1938, except as otherwise specifically provided, see note under section 1401 of this title.

## TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of that Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1260, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. Collectors of customs, and the Commandant of the Coast Guard, referred to in this section, are officers of the Treasury Department, but, in the case of the Coast Guard, and the Commandant thereof, the Plan provided that, notwithstanding the transfer of functions, the Coast Guard shall continue to operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in sections 1 and 3 of Title 14, Coast Guard.

## § 1710. Separability clause.

If any clause, sentence, paragraph, or part of this act, or the application thereof to any person, or circumstances, is held invalid, the application thereof to other persons, or circumstances, and the remainder of the act, shall not be affected thereby. (Aug. 5, 1935, ch. 438, title IV, § 402, 49 Stat. 529.)

## REFERENCES IN TEXT

Word "act", referred to in the text, means act Aug. 5, 1935, which is classified to sections 1401, 1432a, 1434, 1436, 1441, 1581, 1584—1587, 1592, 1615, 1619, 1621, 1701, 1703—1711 of this title, and sections 60, 91, 277, 288, 319, 325 of Title 48, Shipping.

## § 1711. Citation of chapter.

This act may be cited as the "Anti-Smuggling Act". (Act Aug. 5, 1935, ch. 438, title IV, § 403, 49 Stat. 529.)

## REFERENCES IN TEXT

Word "act", referred to in the text, means act Aug. 5, 1935, cited to text, which is classified to sections 1401, 1432a, 1434, 1438, 1441, 1581, 1584—1587, 1592, 1615, 1619, 1621, 1701, 1703—1711 of this title, and sections 60, 91, 277, 283, 319, 325 of Title 48, Shipping.